

Senate File 2142 - Introduced

SENATE FILE 2142

BY SCHOENJAHN

A BILL FOR

1 An Act relating to the withdrawal of a specimen of blood or
2 urine for chemical testing pursuant to a search warrant
3 issued in an operating-while-intoxicated case.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 321J.10, subsections 1, 4, 7, and 9, Code
2 2014, are amended to read as follows:

3 1. Refusal to consent to a test under section 321J.6 does
4 not prohibit the withdrawal of a specimen for chemical testing
5 pursuant to a search warrant issued in the investigation of a
6 suspected violation of section 321J.2, subsection 2, paragraph
7 "b" or "c" or section 707.5 or 707.6A ~~if all of the following~~
8 ~~grounds exist:~~

9 ~~a. A traffic accident has resulted in a death or personal~~
10 ~~injury reasonably likely to cause death.~~

11 ~~b. There are reasonable grounds to believe that one or more~~
12 ~~of the persons whose driving may have been the proximate cause~~
13 ~~of the accident was violating section 321J.2 at the time of the~~
14 ~~accident.~~

15 4. a. Search warrants issued under this section shall
16 authorize and direct peace officers to secure the withdrawal
17 of blood or urine specimens by medical personnel under section
18 321J.11. Reasonable care shall be exercised to ensure the
19 health and safety of the persons from whom specimens are
20 withdrawn in execution of the warrants.

21 b. If a person from whom a specimen is to be withdrawn
22 objects to the withdrawal of blood, ~~the warrant may be executed~~
23 ~~as follows:~~

24 ~~(1) If~~ but the person is capable of giving a specimen of
25 breath, and a direct breath testing instrument is readily
26 available, the warrant may be executed by the withdrawal of
27 a specimen of breath for chemical testing, unless the peace
28 officer has reasonable grounds to believe that the person was
29 under the influence of a controlled substance, a drug other
30 than alcohol, or a combination of alcohol and another drug.

31 ~~(2) c.~~ If the testimony in support of the warrant sets
32 forth facts and information that the peace officer has
33 reasonable grounds to believe that the person was under the
34 influence of a controlled substance, a drug other than alcohol,
35 or a combination of alcohol and another drug, a urine sample

1 ~~shall~~ may be collected in lieu of or in addition to a blood
 2 sample, ~~if the person is capable of giving a urine sample and~~
 3 ~~the sample can be collected without the need to physically~~
 4 ~~compel the execution of the warrant.~~ If the person from whom a
 5 specimen of urine is to be collected objects to the withdrawal
 6 of a urine sample, a urine sample may be taken if the person
 7 is capable of giving a urine sample and the sample can be
 8 collected without the need to physically compel withdrawal of
 9 the sample.

10 7. Specimens obtained pursuant to warrants issued under
 11 this section or under chapter 808 in the investigation of a
 12 suspected violation of section 321J.2, subsection 2, paragraph
 13 "b" or "c", or section 707.5 or 707.6A are not subject to
 14 disposition under section 808.9 or chapter 809 or 809A.

15 9. Medical personnel who use reasonable care and accepted
 16 medical practices in withdrawing blood or urine specimens are
 17 immune from liability for their actions in complying with
 18 requests made of them pursuant to search warrants or pursuant
 19 to section 321J.11.

20 Sec. 2. Section 321J.10, subsection 3, paragraph c, Code
 21 2014, is amended to read as follows:

22 c. The oral application testimony shall set forth facts and
 23 information tending to establish the existence of the grounds
 24 for the warrant ~~and shall describe with a reasonable degree of~~
 25 ~~specificity the person or persons whose driving is believed~~
 26 ~~to have been the proximate cause of the accident~~ and from
 27 whom a specimen is to be withdrawn and the location where the
 28 withdrawal of the specimen or specimens is to take place.

29 Sec. 3. Section 321J.10, Code 2014, is amended by adding the
 30 following new subsection:

31 NEW SUBSECTION. 10. A constitutionally valid search
 32 warrant issued under subsection 3 or chapter 808 shall not
 33 be held invalid solely because of an error of fact made in
 34 good faith as to whether the grounds specified in subsection 1
 35 exist.

1 EXPLANATION

2 The inclusion of this explanation does not constitute agreement with
3 the explanation's substance by the members of the general assembly.

4 This bill relates to the withdrawal of a specimen of blood or
5 urine for chemical testing pursuant or a search warrant issued
6 in an operating-while-intoxicated case.

7 Under current law, refusal to consent to a test under
8 Code section 321J.6 (implied consent) does not prohibit the
9 withdrawal of a specimen of blood for chemical testing pursuant
10 to a search warrant issued in the investigation of a suspected
11 involuntary manslaughter (Code section 707.5) or homicide or
12 serious injury by vehicle (Code section 707.6A) if a traffic
13 accident has resulted in a death or personal injury reasonably
14 likely to cause death and there are reasonable grounds to
15 believe that one or more of the persons whose driving may have
16 been the proximate cause of the accident were violating Code
17 section 321J.2 at the time of the accident. A urine sample
18 may be collected in lieu of a blood sample under certain
19 circumstances.

20 The bill provides that all second and subsequent Code
21 chapter 321J offenders can be forced to submit to blood or
22 urine testing pursuant to a search warrant and eliminates the
23 requirement that there must be reasonable grounds to believe
24 the person was violating Code section 321J.2 and an accident
25 occurred resulting in death or personal injury reasonably
26 likely to cause death, in addition to cases involving
27 involuntary manslaughter or homicide or serious injury by
28 vehicle. An officer may take a urine sample in lieu of or in
29 addition to a blood sample if the person is capable of giving a
30 urine sample and the sample can be collected without the need
31 to physically withdraw the sample. If the person from whom a
32 specimen of urine is to be collected objects to the withdrawal,
33 the person may voluntarily provide a urine sample if the person
34 is capable of giving a urine sample and the sample can be
35 collected without the need to physically withdraw the sample.

1 The bill provides that a constitutionally valid search
2 warrant shall not be held invalid solely because of an error
3 of fact made in good faith as to whether the grounds specified
4 in the bill exist.